

## § 16.7

## 40 CFR Ch. I (7–1–12 Edition)

requirements of 5 U.S.C. 552a(e)(1) and (e)(5).

(d) A system manager who decides to grant all or any portion of a request to correct or amend a record will inform any person or entity outside EPA that was provided the record of the correction or amendment, and, where there is an accounting of that disclosure, make a note of the action taken in the accounting.

(e) If a request pursuant to § 16.3 for access to a record is in a system of records which is exempted, the records system manager or designee will decide whether any information will nonetheless be made available. If the decision is to deny access, the reason for denial and the appeal procedure will be given to the requester.

(f) A person whose request for access is initially denied may appeal that denial to EPA's Privacy Act Officer. EPA's General Counsel will decide the appeal within 30 working days. If an appeal concerns a system of records maintained by the Office of Inspector General, the Privacy Act Officer will forward the appeal to the Counsel to the Inspector General who will decide on the appeal in accordance with § 16.7. The Counsel to the Inspector General will carry out all responsibilities with respect to the appeal that are otherwise assigned to EPA's General Counsel under § 16.7.

(g) If the appeal under § 16.7(e)(6) is denied, the requester will be notified of the right to seek judicial review in accordance with subsection (g) of the Privacy Act.

### § 16.7 The appeal process.

(a) An individual whose request for access to, or correction or amendment of a record is initially denied and who wishes to appeal that denial may do so by sending a letter to EPA's Privacy Act Officer within 30 days of the receipt of the initial denial. The appeal must identify and restate the initial request. If an appeal concerns an adverse decision by the Office of Inspector General, the Privacy Act Officer will forward it to the Counsel to the Inspector General, or his or her designee, who will then act on the appeal. The Counsel to the Inspector General, or his or her designee, will carry out all

responsibilities with respect to PA appeals that are otherwise assigned to EPA's General Counsel under this section; however, if the Counsel to the Inspector General has signed the initial adverse determination, the General Counsel, or his or her designee, will act on the appeal.

(b) EPA's General Counsel, or his or her designee, will make final decisions on PA appeals within 30 working days from the date on which the appeal is properly received in the Office of General Counsel, unless, for good cause shown, the 30-day period is extended and the requester is notified of the extension in writing. Such extensions will be utilized only in exceptional circumstances.

(c) In conducting PA appeals, the General Counsel, or his or her designee, will be guided by the requirements of 5 U.S.C. 552a(e)(1) and (e)(5).

(d) If an appeal is granted in whole or in part, the requester will be notified, in writing, and access to the record will be granted, or the correction or amendment of the record will be made. In all such cases, the Privacy Act Officer will ensure that § 16.7(d) is complied with.

(e) If the General Counsel or the Counsel to the Inspector General decides not to grant all or any portion of an appeal, the requester will be informed:

- (1) Of the decision and its basis;
- (2) Of the requester's right to file a concise statement of reasons for disagreeing with EPA's decision;
- (3) Of the procedures for filing such statement of disagreement;
- (4) That such statements of disagreements will be made available in subsequent disclosures of the record, together with an agency statement (if deemed appropriate) summarizing its refusal;
- (5) That prior recipients of the disputed record will be provided with statements as in paragraph (e)(4) of this section, to the extent that an accounting of disclosures is maintained under 5 U.S.C. 552a(c); and
- (6) Of the requester's right to seek judicial review under 5 U.S.C. 552a(g).